

## Message Text

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ACTION IO-11

INFO OCT-01 CIAE-00 CU-02 INR-07 NSAE-00 USIA-06 AF-06

ARA-06 EA-07 EUR-12 NEA-10 ISO-00 OIC-02 L-03 SMI-01

SSO-00 INRE-00 /074 W

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O 090914Z MAR 76

FM AMEMBASSY PARIS

TO SECSTATE WASHDC IMMEDIATE 8617

LIMITED OFFICIAL USE SECTION 01 OF 05 PARIS 06970

NESCO

E.O. 11652: N/A

TAGS: OCON, UNESCO

SUBJECT: UNESCO SPECIAL COMMITTEE OF GOVERNMENTAL

EXPERTS TO PREPARE A DRAFT RECOMMENDATION ON  
EXCHANGE OF ORIGINAL OBJECTS AND SPECIMENS  
AMONG INSTITUTIONS IN DIFFERENT COUNTRIES;  
MARCH 8-17, PARIS

REF: STATE 050665

1. SUBJECT MEETING OPENED MARCH 8 WITH MORNING SESSION  
TAKEN UP BY WELCOMING REMARKS OF DEPUTY DG FOBES AND  
THE ELECTION OF FOLLOWING MEETING OFFICERS ON  
CONSENSUS BASIS: CHAIRMANSHIP - FRANCE; VICE  
CHAIRMANSHIPS - US, USSR, JAPAN, KENYA, ARGENTINA, LIBYA  
AND RUMANIA CHOSEN AS RAPPORTEUR. YUGOSLAVIA ALSO  
SELECTED BY CONSENSUS TO CHAIR DRAFTING GROUP THAT WILL  
BEGIN WORKING MARCH 12 ON NEWLY REVISED TEXT OF DRAFT  
RECOMMENDATION.

2. PERMDEL REQUESTS URGENTLY, FOR REFERENCE OF USDEL TO  
MEETING, DEPARTMENT'S GUIDANCE AND INSTRUCTIONS  
ON REVISED DECLARATION TEXT, ISSUED ONLY TODAY,  
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REFLECTING COMMENTS OF MEMBER STATES ON INITIAL DRAFT

RECOMMENDATION. USDEL IN VIEW VERY PRELIMINARY GUIDANCE,  
AND ABSENCE OF ANY PROPOSALS FOR AMENDMENT, PROVIDED  
REFTEL, DECLINED SECRETARIAT OFFER TO PARTICIPATE ON  
DRAFTING COMMITTEE.

3. UNCERTAIN AS YET WHETHER ISSUE OF RESTITUTION OF  
CULTURAL OBJECTS WILL BE RAISED BY LDC'S BUT SECRETARIAT  
PREPARED TO REMIND MEETING THAT THIS ISSUE NOT RELEVANT  
TO DRAFT RECOMMENDATION.

4. REVISED TEXT, ENTITLED "REVISED DRAFT RECOMMENDATION  
ON THE INTERNATIONAL EXCHANGE OF CULTURAL PROPERTY,"  
READS AS FOLLOWS:

BEGIN QUOTE "THE GENERAL CONFERENCE OF THE UNITED  
NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION  
.MEETING IN , FROM TO  
1976, AT ITS NINETEENTH SESSION,

RECALLING THAT CULTURAL PROPERTY CONSTITUTES A BASIC  
ELEMENT OF CIVILIZATION AND NATIONAL CULTURE,

CONSIDERING THAT IT IS ACCORDINGLY VITAL FOR EVERY PEOPLE  
THAT IT SHOULD NOT ONLY PRESERVE THE MATERIAL EVIDENCE OF  
ITS OWN CULTURE BUT ALSO KNOW AND APPRECIATE SIMILAR  
EVIDENCE OF OTHER CULTURES,

CONSIDERING THAT THE CIRCULATION OF CULTURAL PROPERTY,  
WHEN REGULATED BY LEGAL, SCIENTIFIC AND TECHNICAL  
CONDITIONS CALCULATED TO PREVENT ILLICIT TRADING IN AND  
DAMAGE TO SUCH PROPERTY, IS A POWERFUL MEANS OF PROMOTING  
MUTUAL UNDERSTANDING AND APPRECIATION AMONG NATIONS,

CONSIDERING THAT THE INTERNATIONAL CIRCULATION OF  
CULTURAL PROPERTY IS STILL LARGELY DEPENDENT ON THE  
ACTIVITIES OF SELF-SEEKING PARTIES AND SO TENDS TO LEAD  
TO SPECULATION WHICH CAUSES THE PRICE OF SUCH PROPERTY TO  
RISE, MAKING IT INACCESSIBLE TO POORER COUNTRIES AND  
INSTITUTIONS WHILE AT THE SAME TIME ENCOURAGING THE  
SPREAD OF ILLICIT TRADING,  
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CONSIDERING THAT, EVEN WHEN THE MOTIVES BEHIND THE  
INTERNATIONAL CIRCULATION OF THIS PROPERTY ARE  
DISINTERESTED, THE ACTION TAKEN USUALLY RESULTS IN  
UNILATERAL SERVICES, SUCH AS SHORT-TERM LOANS, DEPOSITS  
UNDER MEDIUM- OR LONG-TERM ARRANGEMENTS, OR DONATIONS,

CONSIDERING THAT SUCH UNILATERAL OPERATIONS ARE STILL

LIMITED IN NUMBER AND RESTRICTED IN RANGE, BOTH BECAUSE  
OF THEIR COST AND BECAUSE OF THE VARIETY OF COMPLEXITY  
OF THE RELEVANT REGULATIONS AND PRACTICES,

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CONSIDERING THAT, WHILE IT IS HIGHLY DESIRABLE TO  
ENCOURAGE SUCH OPERATIONS, BY REDUCING OR REMOVING THE  
OBSTACLES TO THEIR EXTENSION, IT IS ALSO VITALLY  
IMPORTANT TO PROMOTE BETTER BALANCED OPERATIONS ENABLING  
ALL INSTITUTIONS TO DEAL WITH EACH OTHER ON AN EQUAL  
FOOTING,

CONSIDERING THAT MANY CULTURAL INSTITUTIONS, WHATEVER  
THEIR FINANCIAL RESOURCES, POSSESS SEVERAL IDENTICAL OR  
SIMILAR SPECIMENS OF CULTURAL OBJECTS OF INDISPURABLE  
QUALITY AND ORIGIN WHICH ARE AMPLY DOCUMENTED, AND THAT  
SOME OF THESE ITEMS, WHICH ARE OF ONLY MINOR OR SECONDARY  
IMPORTANCE FOR THESE INSTITUTIONS BECAUSE OF THEIR  
PLURALITY, WOULD BE WELCOMED AS VALUABLE ACCESSIONS BY  
INSTITUTIONS IN OTHER COUNTRIES,

CONSIDERING THAT A SYSTEMATIC POLICY OF EXCHANGES AMONG

CULTURAL INSTITUTIONS, BY WHICH EACH WOULD PART WITH ITS SURPLUS ITEMS IN RETURN FOR OBJECTS THAT IT LACKED, WOULD NOT ONLY BE ENRICHING TO ALL PARTIES BUT WOULD ALSO LEAD TO A BETTER USE OF THE INTERNATIONAL COMMUNITY'S CULTURAL HERITAGE WHICH IS THE SUM OF ALL THE NATIONAL HERITAGES,  
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RECALLING THAT THIS POLICY OF EXCHANGES HAS ALREADY BEEN RECOMMENDED IN VARIOUS INTERNATIONAL AGREEMENTS CONCLUDED AS A RESULT OF UNESCO'S WORK, SUCH AS THE RECOMMENDATION ON INTERNATIONAL PRINCIPLES APPLICABLE TO ARCHAEOLOGICAL EXCAVATIONS, ADOPTED IN NEW DELHI ON 5 DECEMBER 1956, AND ESPECIALLY ITS PARAGRAPH 23 (E), OR THE RECOMMENDATION ON THE MEANS OF PROHIBITING AND PREVENTING THE ILLICIT EXPORT, IMPORT AND TRANSFER OF OWNERSHIP OF CULTURAL PROPERTY, ADOPTED IN PARIS ON 13 NOVEMBER 1964, AND ESPECIALLY ITS PARAGRAPH 9,

NOTING THAT, ON THESE POINTS, THE EFFECTS OF THE ABOVE-MENTIONED INSTRUMENTS HAVE REMAINED LIMITED, AND THAT, GENERALLY SPEAKING, THE PRACTICE OF EXCHANGES BETWEEN DISINTERESTED CULTURAL INSTITUTIONS IS NOT WIDESPREAD, WHILE SUCH OPERATIONS AS DO TAKE PLACE ARE FREQUENTLY CONFIDENTIAL OR UNPUBLICIZED,

CONSIDERING THAT IT IS CONSEQUENTLY NECESSARY TO DEVELOP SIMULTANEOUSLY NOT ONLY THE UNILATERAL OPERATIONS OF LOANS, DEPOSITS OR DONATIONS BUT ALSO BI- OR MULTILATERAL EXCHANGES,

HAVING BEFORE IT PROPOSALS CONCERNING THE EXCHANGE OF ORIGINAL OBJECTS AND SPECIMENS BETWEEN INSTITUTIONS IN DIFFERENT COUNTRIES, WHICH APPEARS ON THE AGENDA OF THE SESSION AS ITEM.....,

HAVING DECIDED, AT ITS EIGHTEENTH SESSION, THAT THIS QUESTION SHOULD BE REGULATED AT INTERNATIONAL LEVEL BY WAY OF A RECOMMENDATION TO MEMBER STATES,

ADOPTS, THIS DAY OF NOVEMBER 1976, THE FOLLOWING RECOMMENDATION.

THE GENERAL CONFERENCE RECOMMENDS THAT MEMBER STATES SHOULD APPLY THE FOLLOWING PROVISIONS BY TAKING WHATEVER LEGISLATIVE OR OTHER STEPS MAY BE REQUIRED IN CONFORMITY WITH THE CONSTITUTIONAL PRACTICE OF EACH STATE TO GIVE EFFECT WITHIN THEIR RESPECTIVE TERRITORIES TO THE  
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PRINCIPLES SET FORTH IN THIS RECOMMENDATION.

THE GENERAL CONFERENCE RECOMMENDS THAT THE MEMBER STATES  
SHOULD BRING THIS RECOMMENDATION TO THE ATTENTION OF THE  
APPROPRIATE AUTHORITIES AND BODIES.

THE GENERAL CONFERENCE RECOMMENDS THAT MEMBER STATES  
SHOULD SUBMIT TO IT, BY DATES AND IN THE FORM TO BE  
DECIDED UPON BY THE CONFERENCE, REPORTS CONCERNING THE  
ACTION TAKEN BY THEM IN PURSUANCE OF THIS RECOMMENDATION.

I. DEFINITIONS

1. FOR THE PURPOSES OF THIS RECOMMENDATION:

"CULTURAL INSTITUTION" SHALL BE TAKEN TO MEAN ANY  
PERMANENT ESTABLISHMENT ADMINISTERED IN THE GENERAL  
INTEREST FOR THE PURPOSE OF PRESERVING, STUDYING AND

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FM AMEMBASSY PARIS  
TO SECSTATE WASHDC IMMEDIATE 8619

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ENHANCING CULTURAL PROPERTY AND MAKING IT ACCESSIBLE TO THE PUBLIC AND WHICH IS LICENSED OR APPROVED BY THE COMPETENT PUBLIC AUTHORITIES OF EACH STATE;

"CULTURAL PROPERTY" SHALL BE TAKEN TO MEAN PROPERTY DESIGNATED BY THE COMPETENT AUTHORITIES OF EACH STATE AS BEING OF IMPORTANCE FOR ARCHAEOLOGY, PREHISTORY, HISTORY, LITERATURE, ART OR SCIENCE AND WHICH INCLUDES THE FOLLOWING CATEGORIES:

(A) SPECIALLY PROTECTED PLANT AND ANIMAL SPECIES, COLLECTIONS AND SPECIMENS OF FAUNA, FLORA, MINERALS AND ANATOMY, AND OBJECTS OF PALAEONTOLOGICAL INTEREST;

(B) PROPERTY RELATING TO HISTORY, INCLUDING THE HISTORY OF SCIENCE AND TECHNOLOGY AND MILITARY AND SOCIAL HISTORY, TO THE LIFE OF NATIONAL LEADERS, THINKERS, SCIENTISTS AND ARTISTS AND TO EVENTS OF NATIONAL IMPORTANCE;

(C) PRODUCTS OF ARCHAEOLOGICAL EXCAVATIONS AND DISCOVERIES;

(D) ELEMENTS OF ARTISTIC OR HISTORICAL MONUMENTS OR LIMITED OFFICIAL USE

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ARCHAEOLOGICAL SITES WHICH HAVE BEEN DISMEMBERED;

(E) ANTIQUITIES SUCH AS INSCRIPTIONS, COINS AND ENGRAVED SEALS;

(F) OBJECTS OF ETHNOLOGICAL INTEREST;

(G) PROPERTY OF ARTISTIC INTEREST, SUCH AS:

(I) PICTURES, PAINTINGS AND DRAWINGS ON ANY SUPPORT AND IN ANY MATERIAL (EXCLUDING INDUSTRIAL DESIGNS AND MANUFACTURED ARTICLES DECORATED BY HAND);

(II) ORIGINAL WORKS OF STATUARY ART AND SCULPTURE IN ANY MATERIAL;

(III) ORIGINAL ENGRAVINGS, PRINTS AND LITHOGRAPHS;

(IV) ORIGINAL ARTISTIC ASSEMBLAGES AND MONTAGES IN ANY MATERIAL;

(V) PHONOGRAPHIC, PHOTOGRAPHIC AND CINEMATOGRAPHIC WORKS AND ALL OTHER AUDIO-VISUAL RECORDINGS;

(H) MANUSCRIPTS AND INCUNABULA, OLD BOOKS, DOCUMENTS AND PUBLICATIONS OF SPECIAL INTEREST (HISTORICAL, ARTISTIC, SCIENTIFIC, LITERARY, ETC.) SINGLY OR IN COLLECTIONS;

(I) POSTAGE, REVENUE AND SIMILAR STAMPS, SINGLY OR IN COLLECTIONS;

(J) ARCHIVES, INCLUDING SOUND, PHOTOGRAPHIC AND CINEMATOGRAPHIC ARCHIVES;

(K) OBJECTS OF APPLIED AND MINOR ARTS, SUCH AS ARTICLES OF FURNITURE, OLD MUSICAL INSTRUMENTS, GOLD AND SILVER WORK, EMBROIDERY, CERAMICS AND GLASSWARE.

"INTERNATIONAL EXCHANGE" SHALL BE TAKEN TO MEAN ANY RECIPROCAL OR UNILATERAL TRANSFER OF CULTURAL PROPERTY - THE EXCHANGE OF OWNERSHIP OR USE, SHORT- OR LONG-TERM LIMITED OFFICIAL USE

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LOAN OR DONATION OF SUCH PROPERTY - CARRIED OUT BETWEEN TWO OR MORE CULTURAL INSTITUTIONS IN DIFFERENT COUNTRIES ON A NON-PROFIT MAKING BASIS FOR THE PURPOSE OF ORGANIZING SPECIFIC EVENTS AND IN PARTICULAR TEMPORARY OR PERMANENT EXHIBITIONS;

"EXCHANGE" SHALL BE TAKEN TO MEAN THE AGREEMENT WHEREBY TWO OR MORE CULTURAL INSTITUTIONS UNDERTAKE TO TRANSFER FROM ONE TO ANOTHER THE OWNERSHIP OR USE OF CULTURAL PROPERTY IN THEIR CUSTODY, THE PERFORMANCE OF THE UNDERTAKING BY THE OTHER PARTIES BEING FOR EACH OF THE PARTIES THE DETERMINANT OF ITS OWN DETERMINANT. WHEN IT CONCERNSS THE OWNERSHIP OF THE PROPERTY IN QUESTION, EXCHANGE BECOMES DEFINITIVE FROM THE MOMENT WHEN ALL PARTIES HAVE PERFORMED THEIR UNDERTAKING IN ACCORDANCE WITH THE CONDITIONS SET OUT IN THE AGREEMENT. WHEN IT CONCERNSS THE USE OF THE PROPERTY IN QUESTION, EXCHANGE IS A TEMPORARY ARRANGEMENT EITHER BECAUSE ITS DURATION IS STIPULATED IN THE AGREEMENT OR BECAUSE IT MAY BE TERMINATED BY ANY OF THE PARTIES AT WILL, PROVIDED

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THAT ANY CONDITIONS REGARDING PRIOR NOTICE WHICH MAY BE LAID DOWN IN THE AGREEMENT ARE OBSERVED. ALL PARTIES ARE THEN OBLIGED TO RETURN SIMULTANEOUSLY THE PROPERTY LENT TO THEM. AN EXCHANGE ARRANGEMENT CONCERNING THE USE OF PROPERTY MAY NOT, WHATEVER ITS DURATION, LEAD TO A TRANSFER OF OWNERSHIP OF THE PROPERTY IN QUESTION, UNLESS A NEW AGREEMENT IS EXPRESSLY CONCLUDED FOR THIS PURPOSE;

"LOAN" SHALL BE TAKEN TO MEAN THE AGREEMENT WHEREBY ONE PARTY MAKES AVAILABLE TO THE OTHER, ON A NON-PROFIT-MAKING BASIS AND FOR A SHORTER OR LONGER PERIOD, ONE OR MORE ITEMS OF CULTURAL PROPERTY FOR THE PURPOSE OF ORGANIZING SPECIFIC EVENTS AND IN PARTICULAR TEMPORARY OR PERMANENT EXHIBITIONS, ON CONDITION THAT THEY ARE CONSERVED BY THE RECEIVING PARTY IN SUCH A WAY AS TO BE COMPATIBLE WITH THEIR INTENDED PURPOSE AND ARE RETURNED IN THE CONDITION IN WHICH THEY WERE RECEIVED. A LOAN IS A TEMPORARY ARRANGEMENT EITHER BECAUSE ITS DURATION IS STIPULATED IN THE AGREEMENT OR BECAUSE IT MAY BE TERMINATED BY ANY OF THE PARTIES AT WILL, PROVIDED THAT ANY CONDITIONS REGARDING PRIOR NOTICE WHICH MAY BE LAID DOWN IN THE AGREEMENT ARE OBSERVED;

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"DONATION" SHALL BE TAKEN TO MEAN THE AGREEMENT WHEREBY THE DONOR TRANSFERS TO THE RECIPIENT, FREE OF CHARGE, THE OWNERSHIP OF THE PROPERTY IN QUESTION.

II. MEASURES RECOMMENDED

2. BEARING IN MIND THAT ALL CULTURAL PROPERTY FORMS PART OF THE COMMON CULTURAL HERITAGE OF MANKIND AND THAT EVERY STATE HAS A RESPONSIBILITY IN THIS RESPECT, NOT ONLY TOWARDS ITS OWN NATIONALS BUT ALSO TOWARDS THE INTERNATIONAL COMMUNITY AS A WHOLE' MEMBER STATES SHOULD ADOPT THE FOLLOWING MEASURES TO DEVELOP THE CIRCULATION OF CULTURAL PROPERTY AMONG CULTURAL INSTITUTIONS IN DIFFERENT COUNTRIES.

LEGISLATIVE MEASURES OR REGULATIONS

3. MEMBER STATES, IN ACCORDANCE WITH THE LEGISLATION AND CONSTITUTIONAL PRACTICE AND THE PARTICULAR CIRCUMSTANCES OF THEIR RESPECTIVE COUNTRIES, SHOULD MODIFY EXISTING STATUTES OR REGULATIONS OR ADOPT NEW LEGISLATION OR REGULATIONS REGARDING INHERITANCE, TAXATION AND CUSTOMS DUTIES IN ORDER TO MAKE IT POSSIBLE OR EASIER TO CARRY OUT THE FOLLOWING OPERATIONS SOLELY FOR THE PURPOSES OF INTERNATIONAL EXCHANGES OF CULTURAL PROPERTY BETWEEN CULTURAL INSTITUTIONS OR GOVERNMENTS:

(A) TRANSFER OF OWNERSHIP OR DERESTRICTION OF CULTURAL PROPERTY BELONGING TO A PUBLIC BODY OR A CULTURAL INSTITUTION,

(B) DEFINITIVE OR TEMPORARY IMPORT OR EXPORT OF CULTURAL PROPERTY.

ADMINISTRATIVE AND FINANCIAL MEASURES

4. IF NECESSARY, MEMBER STATES SHOULD ESTABLISH EITHER UNDER THEIR DIRECT AUTHORITY OR THROUGH CULTURAL INSTITUTIONS PLACED UNDER THEIR AUTHORITY OR SUPERVISION, A NATIONAL FILE, TO BE AS COMPREHENSIVE AS POSSIBLE, OF REQUESTS FOR AND OFFERS OF EXCHANGES OF CULTURAL PROPERTY LIMITED OFFICIAL USE

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MADE AVAILABLE BY THESE INSTITUTIONS FOR INTERNATIONAL EXCHANGE.

5. OFFERS OF EXCHANGES SHOULD BE ENTERED IN THE FILE ONLY ON CONDITION THAT THEY CONCERN ITEMS WHOSE LEGAL STATUS IS FOUND, AFTER VERIFICATION, TO BE IN ORDER UNDER NATIONAL LAW.

6. THEY SHOULD INCLUDE THE CORRELATIVE OFFER OF ALL DOCUMENTATION CALCULATED TO BRING OUT THE FULL CULTURAL

SIGNIFICANCE OF THE ITEMS IN QUESTION.

7. MEMBER STATES SHOULD GIVE FINANCIAL ASSISTANCE TO LOCAL CULTURAL INSTITUTIONS IN ORDER TO FACILITATE THE CARRYING OUT OF INTERNATIONAL EXCHANGES.

8. MEMBER STATES SHOULD TAKE ALL NECESSARY MEASURES TO FACILITATE THE TRANSFER OF CULTURAL PROPERTY FOR THE PURPOSES OF INTERNATIONAL EXCHANGES TO CULTURAL INSTITUTIONS OR FOREIGN GOVERNMENTS AND IN PARTICULAR THE

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TO SECSTATE WASHDC IMMEDIATE 8621

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MEASURES PROVIDED FOR IN THE AGREEMENT FOR FACILITATING THE INTERNATIONAL CIRCULATION OF VISUAL AND AUDITORY MATERIAL OF AN EDUCATIONAL, SCIENTIFIC AND CULTURAL CHARACTER, ADOPTED BY THE GENERAL CONFERENCE OF UNESCO IN BEIRUT IN 1948, THE AGREEMENT ON THE IMPORTATION OF EDUCATIONAL, SCIENTIFIC AND CULTURAL MATERIALS, ADOPTED BY THE GENERAL CONFERENCE OF UNESCO IN FLORENCE IN 1950, AND THE CUSTOMS CONVENTION CONCERNING FACILITIES FOR THE IMPORTATION OF GOODS FOR DISPLAY OR USE AT EXHIBITIONS, FAIRS, MEETINGS OR SIMILAR EVENTS, ADOPTED BY THE CUSTOMS CO-OPERATION COUNCIL IN 1961 AND IN THE CUSTOMS

CONVENTIONS RELATING TO THE TEMPORARY IMPORTATION OF  
SCIENTIFIC EQUIPMENT AND OF PEDAGOGICAL MATERIAL  
CONCLUDED IN BRUSSELS IN 1968 AND 1970 RESPECTIVELY.

9. MEMBER STATES SHOULD GIVE SPECIAL ATTENTION TO THE  
PROBLEM OF COVERING THE RISKS TO WHICH CULTURAL PROPERTY  
IS EXPOSED THROUGHOUT THE DURATION OF LOANS, INCLUDING  
THE PERIOD SPENT IN TRANSPORT, AND SHOULD IN PARTICULAR,  
STUDY THE POSSIBILITY OF INTRODUCING GOVERNMENT GUARANTEE  
AND COMPENSATION SYSTEMS FOR THE LOAN OF OBJECTS OF GREAT  
VALUE, SUCH AS THOSE WHICH ALREADY EXIST IN CERTAIN  
COUNTRIES. END QUOTE

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5. PLEASE ADVISE.  
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## Message Attributes

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**TAGS:** OCON, UNESCO  
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